

Members

Sen. Luke Kenley  
Sen. Anita Bowser  
Sen. Sue Landske  
Sen. Sam Smith, Jr.  
Rep. Robert Behning  
Rep. Ralph Foley  
Rep. John Frenz  
Rep. Robert Kuzman  
Cynthia Baker  
Judge Sanford Brook  
Jon Laramore  
Debbie Lynch  
Dave Remondini  
Heather Sewell  
Jennifer Thuma



## CODE REVISION COMMISSION

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LSA Staff:

John J. Stieff, Attorney for the Committee

Authority: IC 2-5-1.1-10

### MEETING MINUTES

Meeting Date: October 16, 2002  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington  
St., Room 233  
Meeting City: Indianapolis, Indiana  
Meeting Number: 1

**Members Present:** Sen. Luke Kenley, Chairman; Sen. Anita Bowser; Sen. Sue Landske; Rep. Robert Behning; Professor Cynthia Baker; Mr. Dave Remondini, representing Chief Justice Randall T. Shepard, Indiana Supreme Court; Ms. Jennifer Thuma, representing Attorney General Steve Carter; Ms. Heather Sewell, representing Secretary of State Sue Ann Gilroy; Mr. Jon Laramore, representing Governor Frank O'Bannon.

**Members Absent:** Sen. Sam Smith, Jr.; Rep. Ralph Foley; Rep. John Frenz; Rep. Robert Kuzman; Judge Sanford Brook, Chief Judge, Indiana Court of Appeals; Ms. Debbie Lynch, Esq.

**Staff Present:** Mr. John Stieff, Director, Office of Code Revision; Mr. Craig Mortell, Deputy Director, Office of Code Revision; Ms. Rebecca Mortell, Deputy Director, Office of Code Revision; Mr. Tim Tyler, Recodification Editor and Senior Staff Attorney, Office of Bill Drafting and Research; Mr. Dick Sheets, Editorial Assistant, Office of Code Revision.

#### I. CALL TO ORDER

The meeting was called to order at 10:08 a.m. by Mr. John Stieff, Director, Office of Code Revision.

#### II. ELECTION OF CHAIRMAN

Representative Robert Behning nominated Senator Luke Kenley to be the new Chairman of the Code Revision Commission. The motion was seconded and adopted by consent.

### **III. INTRODUCTORY REMARKS**

Senator Kenley said the Commission would be reviewing the technical corrections bill, which is prepared every year to correct mistakes in the Indiana Code, and a Title recodification, which is done most years. The recodification, he noted, has provided a significant tool in improving the Indiana Code. Senator Kenley said he has received many compliments over the years on the recodification projects. The technical corrections bill, he said, was also important work. He thanked Mr. Stieff and his staff for their work.

Mr. Stieff explained that the two major projects to be addressed in the first of two Commission meetings are the recodification of Title 10 (State Police, Civil Defense and Military Affairs) and the technical corrections bill. He said it is important that the organizational scheme of the recodification project be approved at this meeting so that work can begin on changing hundreds of internal references in the title being recodified. Mr. Stieff said a second meeting, scheduled for November 7, would be needed to review the final draft.

Mr. Stieff introduced four legislative attorneys from South Africa who were attending the Commission meeting. Senator Kenley extended a welcome to the visitors.

Mr. Stieff also reported to the Commission that the Office of Code Revision has taken over from West Publishing Company the publication of the Indiana Code and the Indiana Administrative Code, at a great savings to the taxpayer. Senator Kenley asked that Mr. Stieff compose a memo detailing the savings for both. Mr. Stieff reported that the Executive Director of Legislative Services was already doing just that.

### **IV. REVIEW OF MINUTES**

The Commission approved by consent the minutes of the Commission's last meeting on November 1, 2001.

### **V. TITLE 10 RECODIFICATION**

Mr. Timothy Tyler, LSA Senior Staff Attorney and Recodification Editor, stated that the recodification presented unique challenges because of the diverse topics contained in Title 10.

Mr. Tyler distributed an updated Title 10 recodification organizational scheme (attached) to Commission members. The update indicated in bold several new chapters that had been added to the outline after it was distributed to Commission members and interested parties in April. Mr. Tyler stated the outline contained the following changes:

- Added separate chapters for definitions in Article 13 (State Police Data and Information Programs) and Article 14 (Civil Defense and Emergency Management).
- Made the State Disaster Relief Fund a separate chapter in Article 14.
- Made provisions concerning the Naval Battalion, Naval Force, and Marine Corps Battalion separate chapters in Article 16 (Military Affairs) instead of combining them in one chapter.
- Made the Division of Graves Registration a separate chapter in Article 16.
- Made provisions concerning City War Memorials a separate chapter in Article 18 (War Memorials) instead of including them in the chapter concerning City and County War Memorials.

Mr. Jon Laramore inquired whether state agencies had seen the revisions. Mr. Tyler responded that they had seen some but not all of them. Senator Kenley asked that state agencies be informed of any changes.

Mr. Tyler then stated the State Emergency Management Agency (SEMA) had suggested two changes to the Title 10 recodification. First, he said SEMA indicated that "civil defense" was no longer an appropriate term and should be replaced with the term "emergency management." Mr. Tyler stated "civil defense" only appears five times in the Indiana Code currently, all in Title 10, and that in four of those instances the term is used in a Title, Article, or Chapter heading.

Mr. Tyler also stated SEMA indicated the Emergency Management Assistance Compact adopted by Indiana in 1998 superseded the older Interstate Civil Defense and Disaster Compact and the Earthquake Emergency Compact. He said SEMA felt those two older compacts should be repealed and not placed back in the Indiana Code.

Mr. Brad Gavin, General Counsel from SEMA, discussed these issues with Commission members. The Commission voted by consent to replace the term "civil defense" with the term "emergency management" but decided to keep the Interstate Civil Defense and Disaster Compact and the Earthquake Emergency Compact in the Indiana Code to avoid any possibility of appearing to make a substantive change to the law in the recodification bill. Senator Kenley asked SEMA to prepare a memo explaining its position and addressing whether this is something the Commission should address in a separate bill.

Mr. Tyler stated he had discussed another change to the recodification with Mr. Les Miller, Special Counsel to the Superintendent of the Indiana State Police (ISP). Mr. Tyler stated that Mr. Miller told him the chapter entitled "Indiana Statewide 800 MHZ Public Safety Trunking System" should be renamed and moved out of Title 10 and placed in IC 5-26, "Public Safety Communications." He said Mr. Miller stated that 1999 amendments to this chapter made it "no longer ISP centric." He said Mr. Miller told him one of the biggest issues the ISP had was convincing local public safety agencies that the system in that chapter is not an ISP system but a system designed for federal, state, and local public safety agencies.

Mr. Steve Hillman from the ISP discussed this issue with Commission members. The Commission agreed to move the chapter to IC 5-26 in the recodification bill.

The Commission then voted by consent to adopt the Title 10 organizational scheme as modified by the changes approved by the Commission during the meeting.

Mr. Stieff said much of the credit for the work on the organizational scheme for the Title 10 recodification should go to Commission member Cynthia Baker, who provided an intern for the Office of Code Revision. Mr. Stieff said much of the work on the organizational scheme was done last year by Steve Schmidt. He noted another intern, Kate Van Winkle, is currently working on Title 33, a future recodification project.

## **VI. PROPOSED TECHNICAL CORRECTIONS BILL**

Mr. Stieff said the technical corrections bill (TC bill) is a little longer this year, due in part to the amount of legislation passed at the very end of the regular and special sessions. He noted, however, the changes in the document are only to fix errors and are not substantive in nature. He explained that there is a three-tiered test to determine what goes into the TC bill: 1. Is there a mistake? 2. Is there only one way to correct the mistake? 3. Will the correction result in no substantive change? If the answer to each question is "yes", the proposed change will be included in the technical corrections bill.

Mr. Craig Mortell, Deputy Director, Office of Code Revision, distributed copies of

PD 3649, a draft of the 2003 TC bill, and also a SECTION-by-SECTION outline explaining the contents of PD 3649.

Mr. Mortell described PD 3649 as containing largely the same sorts of provisions as contained in TC bills of prior years. However, he pointed out that several SECTIONS of PD 3649 are "conflict resolution" SECTIONS, i.e., SECTIONS resolving the problem that arises when the same Code section is amended differently in two or more separate acts of the same legislative session. He discussed the conflict resolution process and distributed a printed handout explaining the drafting techniques (the use of italics, etc.) used in resolving a conflict.

Senator Kenley said some legislators think the second bill that passes is the controlling bill and a correction would not be required. Mr. Stieff explained that OCR tries to give effect to all enactments of the General Assembly, unless the clear intention is to give only the last enactment effect.

Ms. Rebecca Mortell, Deputy Director, Office of Code Revision, explained that the Joint Rule 20 process allows for some conflicts to be corrected late in the session.

Mr. Stieff and Mr. Mortell explained that the 2003 TC bill is still "a work in progress" and that the draft prepared for consideration at the Commission's November 7 meeting will differ somewhat from PD 3649 due to certain refinements, additions, and deletions.

Senator Kenley asked Commission members to read through the draft and address any questions or concerns at the November meeting.

## **VII. NEXT MEETING**

The Commission agreed to meet at 10 a.m. November 7, 2002, in Room 233 of the State House, Indianapolis, Indiana, to finalize the recodification draft and the technical corrections bill.

## **VIII. ADJOURNMENT**

The meeting was then adjourned by the Chairman at 11:07 a.m.